

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

Chapter 13

DARRELL A. NOON and
ANNETTE C. NOON,

Case Number: 14-42404

Debtors.

OBJECTIONS OF THE UNITED STATES OF AMERICA -
INTERNAL REVENUE SERVICE TO THE CONFIRMATION
OF THE DEBTORS' CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA - Internal Revenue Service ("IRS"), by and through its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota and Roylene A. Champeaux, Assistant United States Attorney, submits the following objections to the confirmation of Chapter 13 plan proposed by these debtors and motion to dismiss:

1. The court will hold a hearing on this motion on July 31, 2014, at 10:00 a.m. in Courtroom 8 West, 8th Floor, United States Bankruptcy Court, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel can be heard.

2. Pursuant to Loc. R. Bankr. P. (D. Minn.) 9013-2 and 9006-1, any response to this motion must be filed and served by delivery not later than July 25, 2014 which is five days, including Saturdays, Sundays and holidays, before the time set for the hearing.

UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

3. The court has jurisdiction over these objections and motion to dismiss pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Loc. R. Bankr. P. (D. Minn.) 1070-1. This is a core proceeding. The petition commencing this Chapter 13 case was filed June 4, 2014. This case is now pending in this court.

4. These objections and motion to dismiss arise under 11 U.S.C. §§ 502(a); 1325(a)(5); 1307(c) and Fed. R. Bankr. P. 3015. These objections and motion to dismiss are filed under Fed. R. Bankr. P. 9013 and 9014 and Loc. R. Bankr. P. (D. Minn.) 3015-3, 3020-1, 3020-3 and 9013-1, *et seq.*

5. The IRS has a secured claim of \$6,292.00 and a general unsecured claim of \$59,300.45 against these debtors. The total claim is \$65,592.45, as set forth in the filed IRS Amended Proof of Claim, a copy of which is attached hereto as Exhibit A.

6. The debtors' plan fails to provide for payments to fully pay the IRS secured claim. As the plan fails to provide for the IRS secured claim and as the IRS has not accepted the plan pursuant to 11 U.S.C. § 1325(a)(5), the plan cannot be confirmed.

7. Failure of the debtors' plan to provide for full payment of the allowed IRS secured tax claim is grounds for dismissal of the case pursuant to 11 U.S.C. §1307(c).

8. A separate memorandum of law is attached.

WHEREFORE, for the foregoing reasons, the United States prays that the Chapter 13 plan filed by these debtors be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Dated: July 17, 2014

Respectfully Submitted,

ANDREW M. LUGER
United States Attorney

/e/ Roylene A. Champeaux

BY: ROYLENE A. CHAMPEAUX
Assistant United States Attorney
Attorney Reg. No. 154805
Roylene.Champeaux@usdoj.gov
600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5685

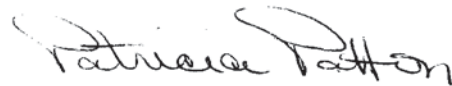
Attorneys for the United States of
America - Internal Revenue Service

VERIFICATION

I, Patricia Patton, Bankruptcy Specialist, Insolvency Unit of Area Four(4) Small Business/Self Employed of the Internal Revenue Service, an agent for the movant named in the Chapter 13 Bankruptcy, number 14-42404, declare under penalty of perjury that the foregoing motion to dismiss and objections regarding the bankruptcy of Darrell A. & Annette C. Noon is true and correct according to the best of my knowledge, information and belief.

Dated: July 14, 2014

Signed:

A handwritten signature in cursive script, appearing to read "Patricia Patton", written in dark ink.

Patricia Patton
Bankruptcy Specialist

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF MINNESOTA		PROOF OF CLAIM
Name of Debtor: DARRELL A & ANNETTE C NOON		Case Number: 14-42404
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Department of the Treasury - Internal Revenue Service Name and address where notices should be sent: Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346 Telephone number: 1-800-973-0424 email: _____ Creditor Number: 60739315		COURT USE ONLY
Name and address where payment should be sent (if different from above): Internal Revenue Service P.O. Box 7317 Philadelphia, PA 19101-7317 Telephone Number: 1-800-973-0424 email: _____		<input checked="" type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ 3 (If known) Filed on: 06/13/2014 <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ 65,592.45 If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: Taxes (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: See Attachment	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		
Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: *All of debtor(s) right, title and interest to property - 26 U.S.C. §6321 Value of Property: \$ _____ Annual Interest Rate 3 % <input type="checkbox"/> fixed or <input checked="" type="checkbox"/> variable (when case was filed)		Amount of arrearage and other charges, as of the time case filed, included in secured claim, if any: \$ 6,292.00 Basis for perfection: See Attachment Amount of Secured Claim: \$ 6,292.00 Amount Unsecured: \$ 59,300.45
5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).	<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5). Amount entitled to priority: \$ _____
<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____).		
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

EXHIBIT

A.

7. Documents: Attach are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

- ☒ I am the creditor. ☐ I am the creditor's authorized agent. ☐ I am the trustee, or the debtor, or their authorized agent. ☐ I am a guarantor, surety, indorsor, or other codebtor. (See Bankruptcy Rule 3005.)
(See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print name: PAT PATTON
Title: Bankruptcy Specialist
Company: Internal Revenue Service

/s/ PAT PATTON
(Signature)

07/16/2014
(Date)

Address and telephone number (if different from notice address above):

Internal Revenue Service
30 E Seventh St, Room 1222
M/S 5700
St Paul, MN 55101

Telephone number: (651) 312-7992

Email:

Proof of Claim for Internal Revenue Taxes

Department of the Treasury/Internal Revenue Service

Form 10
Attachment

In the Matter of: DARRELL A & ANNETTE C NOON
23033 - 174TH ST NW
BIG LAKE, MN 55309

Case Number

14-42404

Type of Bankruptcy Case

CHAPTER 13

Date of Petition

06/04/2014

Amendment No. 1 to Proof of Claim dated 06/13/2014.

The United States has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Lien Filed: Date	Office Location
XXX-XX-4654	INCOME	12/31/2003	10/29/2007	\$0.00	\$5,939.82	\$352.18	05/16/2008	HENNEPIN E

Total Amount of Secured Claims:**\$6,292.00****Unsecured Priority Claims** under section 507(a)(8) of the Bankruptcy Code

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-4654	INCOME	12/31/2013	06/02/2014	\$0.00	\$0.00

Total Amount of Unsecured Priority Claims:**\$0.00****Unsecured General Claims**

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-4654	INCOME	12/31/2003	10/29/2007	\$0.00	\$11,026.52
XXX-XX-4654	INCOME	12/31/2004	10/29/2007	\$20,250.00	\$13,660.38
				<u>\$20,250.00</u>	<u>\$24,686.90</u>

Penalty to date of petition on unsecured general claims (including interest thereon) \$14,363.55

Total Amount of Unsecured General Claims:**\$59,300.45**

1872

COURT RECORDING DATA

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT BANKRUPTCY DOCKET: 14-42404	Lien Recorded : 05/16/2008 - 17:00PM Recording Number: 9137691 UCC Number : Liber : Page :
Area: SMALL BUSINESS/SELF EMPLOYED #4 Lien Unit Phone: (800) 829-3903	IRS Serial Number: 444658008

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer:

DARRELL A & ANNETTE C NOON

Residence:

14800 COUNTRY RD
ROGERS, MN 55374-9407

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2003	XXX-XX-4654	10/29/2007	11/28/2017	\$37,677.52
1040	12/31/2004	XXX-XX-4654	10/29/2007	11/28/2017	\$37,926.62

Filed at: COUNTY RECORDER HENNEPIN E MINNEAPOLIS, MN 55487-0083	Total	\$75,604.14
---	-------	-------------

This notice was prepared and executed at CHICAGO, IL
on this, the 13th day of May, 2008.

Authorizing Official: REGINA OWENS	Title: ACS SBSE 24-00-0008
---------------------------------------	----------------------------------

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

Chapter 13

DARRELL A. NOON and
ANNETTE C. NOON,

Case Number: 14-42404

Debtors.

MEMORANDUM IN SUPPORT OF THE
OBJECTIONS OF THE UNITED STATES OF AMERICA -
INTERNAL REVENUE SERVICE TO THE CONFIRMATION
OF THE DEBTORS' CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA - Internal Revenue Service ("IRS") by and through its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota and Roylene A. Champeaux, Assistant United States Attorney, submits the following memorandum in support of its objections to confirmation of debtors' Chapter 13 plan and motion to dismiss.

1. The IRS has a secured claim of \$6,292.00 and a general unsecured claim of \$59,300.45 against these debtors. The total claim is \$65,592.45, as set forth in the filed IRS Proof of Claim.

2. Since no objections to the IRS tax claims have been filed, the claims are deemed allowed, pursuant to 11 U.S.C. § 502(a).

3. The plan fails to provide for payments to fully pay the IRS secured claim.

As the plan fails to provide for the IRS secured claim and as the IRS has not accepted the plan, the plan cannot be confirmed under 11 U.S.C. § 1325(a)(5).

4. Failure of the debtors' plan to provide for full payment of the allowed IRS secured tax claim is grounds for dismissal of the case pursuant to 11 U.S.C. § 1307(c).

WHEREFORE, for the foregoing reasons, the United States of America – Internal Revenue Service prays that the Chapter 13 plan filed by these debtors be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Respectfully submitted,

Dated: July 17, 2014

ANDREW M. LUGER
United States Attorney

/e/ Roylene A. Champeaux

BY: ROYLENE A. CHAMPEAUX
Assistant United States Attorney
Attorney Reg. No. 154805
Roylene.Champeaux@usdoj.gov
600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5685

Attorneys for the United States of
America - Internal Revenue Service

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

DARRELL A. NOON and
ANNETTE C. NOON,

Debtors.

Chapter 13

Case Number: 14-42404

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

I, Roylene A. Champeaux, employed by the Office of the United States Attorney, with office address 600 United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, declare that on July 17, 2014, I caused to be served a copy of the following documents:

Objections of the United States of America – Internal Revenue Service to the Confirmation of the Debtors’ Chapter 13 Plan and Motion to Dismiss, Verification and Exhibit A; Memorandum in Support of Objections of the United States of America – Internal Revenue Service to the Confirmation of Debtors’ Chapter 13 Plan and Motion to Dismiss; proposed Order; Unsworn Declaration for Proof of Service

mailed by first class mail, postage paid, to the following non-ECF participants by enclosing same in an envelope with first class mail postage and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:

DARRELL A. NOON
23033 – 174TH STREET NW
BIG LAKE, MN 55309

ANNETTE C. NOON
23033 – 174TH STREET NW
BIG LAKE, MN 55309

UNSWORN DECLARATION FOR PROOF OF SERVICE - Continued

Re: **Darrell A. and Annette C. Noon**
BKY 14-42404

MINNESOTA DEPARTMENT OF REVENUE
COLLECTION ENFORCEMENT UNIT
551 BANKRUPTCY SECTION
P.O. BOX 64447
ST. PAUL, MN 55164

JEREMY D. EIDEN
ASSISTANT ATTORNEY GENERAL
OFFICE OF MN ATTORNEY GENERAL
TAX LITIGATION DIVISION
900 BREMER TOWER
445 MINNESOTA STREET
ST. PAUL, MN 55101-2128

And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: 7-17-14

Signed: /e/ Roylene A. Champeaux
ROYLENE A. CHAMPEAUX
Assistant U. S. Attorney

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

DARRELL A. NOON and
ANNETTE C. NOON,

Debtors.

Chapter 13

Case Number: 14-42404

ORDER

This matter came before the court for hearing on confirmation of the debtors' plan. The United States of America - Internal Revenue Service ("United States"), filed objections to confirmation and a motion to dismiss. The United States requested an order denying confirmation and dismissing the case. Appearances, if any, were noted on the record.

It appears to the satisfaction of the court that the debtors' plan cannot be confirmed.

IT IS ORDERED:

1. Confirmation is denied.
2. The case is dismissed.

Dated:

ROBERT J. KRESSEL
United States Bankruptcy Judge